

Calendar No. 413

110TH CONGRESS
1ST SESSION**H. R. 2740**

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2007

Received and read the first time

OCTOBER 5, 2007

Read the second time and ordered to be placed on the calendar

AN ACT

To require accountability for contractors and contract personnel under Federal contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “MEJA Expansion and
5 Enforcement Act of 2007”.

6 **SEC. 2. LEGAL STATUS OF CONTRACT PERSONNEL.**

7 (a) CLARIFICATION OF THE MILITARY
8 EXTRATERRITORIAL JURISDICTION ACT.—

1 (1) INCLUSION OF CONTRACTORS.—Subsection
2 (a) of section 3261 of title 18, United States Code,
3 is amended—

4 (A) by striking “or” at the end of para-
5 graph (1);

6 (B) by striking the comma at the end of
7 paragraph (2) and inserting “; or”; and

8 (C) by inserting after paragraph (2) the
9 following:

10 “(3) while employed under a contract (or sub-
11 contract at any tier) awarded by any department or
12 agency of the United States, where the work under
13 such contract is carried out in an area, or in close
14 proximity to an area (as designated by the Depart-
15 ment of Defense), where the Armed Forces is con-
16 ducting a contingency operation,”.

17 (2) DEFINITION.—Section 3267 of title 18,
18 United States Code, is amended by adding at the
19 end the following:

20 “(5) The term ‘contingency operation’ has the
21 meaning given such term in section 101(a)(13) of
22 title 10.”.

23 (b) DEPARTMENT OF JUSTICE INSPECTOR GENERAL
24 REPORT.—

1 (1) REPORT REQUIRED.—Not later than 180
2 days after the date of the enactment of this Act, the
3 Inspector General of the Department of Justice shall
4 submit to Congress a report in accordance with this
5 subsection.

6 (2) CONTENT OF REPORT.—The report under
7 paragraph (1) shall include—

8 (A) a description of the status of Depart-
9 ment of Justice investigations of alleged viola-
10 tions of section 3261 of title 18, United States
11 Code, to have been committed by contract per-
12 sonnel, which shall include—

13 (i) the number of complaints received
14 by the Department of Justice;

15 (ii) the number of investigations into
16 complaints opened by the Department of
17 Justice;

18 (iii) the number of criminal cases
19 opened by the Department of Justice; and

20 (iv) the number and result of criminal
21 cases closed by the Department of Justice;

22 (B) findings and recommendations about
23 the number of criminal cases prosecuted by the
24 Department of Justice involving violations of

1 section 3261 of title 18, United States Code;
2 and

3 (C) with respect to covered contracts where
4 the work under such contracts is carried out in
5 Iraq or Afghanistan—

6 (i) a list of each charge brought
7 against contractors or contract personnel
8 performing work under such a covered con-
9 tract, including—

10 (I) a description of the offense
11 with which a contractor or contract
12 personnel were charged; and

13 (II) the disposition of such
14 charge; and

15 (ii) a description of any legal actions
16 taken by the United States Government
17 against contractors or contract personnel
18 as a result of—

19 (I) a criminal charge brought
20 against such contractors or contract
21 personnel; or

22 (II) a complaint received regard-
23 ing the activities of such contractors
24 or contract personnel.

1 (3) **FORMAT OF REPORT.**—The report under
2 paragraph (1) shall be submitted in unclassified for-
3 mat, but may contain a classified annex as appro-
4 prium.

5 **SEC. 3. FEDERAL BUREAU OF INVESTIGATION INVESTIGA-**
6 **TIVE UNIT FOR CONTINGENCY OPERATIONS.**

7 (a) **ESTABLISHMENT OF THEATER INVESTIGATIVE**
8 **UNIT.**—The Director of the Federal Bureau of Investiga-
9 tion shall ensure that there are adequate personnel
10 through the creation of Theater Investigative Units to in-
11 vestigate allegations of criminal violations of section 3261
12 of title 18, United States Code, by contract personnel.

13 (b) **RESPONSIBILITIES OF THEATER INVESTIGATIVE**
14 **UNIT.**—The Theater Investigative Unit established for a
15 theater of operations shall—

16 (1) investigate reports that raise reasonable
17 suspicion of criminal misconduct by contract per-
18 sonnel;

19 (2) investigate reports of fatalities resulting
20 from the potentially unlawful use of force by con-
21 tract personnel; and

22 (3) upon conclusion of an investigation of al-
23 leged criminal misconduct, refer the case to the At-
24 torney General of the United States for further ac-

1 tion, as appropriate in the discretion of the Attorney
2 General.

3 (c) RESPONSIBILITIES OF FEDERAL BUREAU OF IN-
4 VESTIGATION.—

5 (1) RESOURCES.—The Director of the Federal
6 Bureau of Investigation shall ensure that each The-
7 ater Investigative Unit has adequate resources and
8 personnel to carry out its responsibilities.

9 (2) NOTIFICATION.—The Director of the Fed-
10 eral Bureau of Investigation shall notify Congress
11 whenever a Theater Investigative Unit is established
12 or terminated in accordance with this section.

13 (3) SECURITY.—The Director of the Federal
14 Bureau of Investigation shall request security assist-
15 ance from the Secretary of Defense in any case in
16 which a Theater Investigative Unit does not have
17 the resources or is otherwise unable to provide ade-
18 quate security to ensure the safety of such Unit. The
19 Director may not request or provide for security for
20 a Theater Investigate Unit from any individual or
21 entity other than the Federal Bureau of Investiga-
22 tion or the Secretary of Defense.

23 (d) ASSISTANCE ON REQUEST OF ATTORNEY GEN-
24 ERAL.—In consultation with the Director of the Federal
25 Bureau of Investigation, the Attorney General may re-

1 quest assistance from the Secretary of State, the Secretary
2 of Defense, the Secretary of Homeland Security, or the
3 head of any other Executive agency, notwithstanding any
4 statute, rule, or regulation to the contrary, including the
5 assignment of additional personnel and resources to a
6 Theater Investigative Unit.

7 (e) ANNUAL REPORT.—Not later than one year after
8 the date on which the Director of the Federal Bureau of
9 Investigation ensures compliance with the provisions of
10 this Act pursuant to section 5(c), and annually thereafter,
11 the Director of the Federal Bureau of Investigation shall
12 submit to Congress a report containing—

13 (1) the number of reports received by Theater
14 Investigative Units relating to suspected criminal
15 misconduct by contractors or contract personnel;

16 (2) the number of reports received by Theater
17 Investigative Units relating to fatalities resulting
18 from the use of force by contractors or contract per-
19 sonnel;

20 (3) the number of cases referred by Theater In-
21 vestigative Units to the Attorney General for further
22 investigation or other action; and

23 (4) any recommended changes to Federal law
24 that the Director considers necessary to perform the
25 duties of the Director under this Act.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) COVERED CONTRACT.—The term “covered
4 contract” means an agreement—

5 (A) that is—

6 (i) a prime contract awarded by an
7 agency;

8 (ii) a subcontract at any tier under
9 any prime contract awarded by an agency;
10 or

11 (iii) a task order issued under a task
12 or delivery order contract entered into by
13 an agency; and

14 (B) according to which the work under
15 such contract, subcontract, or task order is car-
16 ried out in a region outside the United States
17 in which the Armed Forces are conducting a
18 contingency operation.

19 (2) AGENCY.—The term “agency” has the
20 meaning given the term “Executive agency” in sec-
21 tion 105 of title 5, United States Code.

22 (3) CONTINGENCY OPERATION.—The term
23 “contingency operation” has the meaning given the
24 term section 101(13) of title 10, United States
25 Code.

1 (4) CONTRACTOR.—The term “contractor”
2 means an entity performing a covered contract.

3 (5) CONTRACT PERSONNEL.—The term “con-
4 tract personnel” means persons assigned by a con-
5 tractor (including subcontractors at any tier) to per-
6 form work under a covered contract.

7 **SEC. 5. EFFECTIVE DATE.**

8 (a) APPLICABILITY.—The provisions of this Act shall
9 apply to all covered contracts and all covered contract per-
10 sonnel in which the work under the contract is carried out
11 in an area, or in close proximity to an area (as designated
12 by the Department of Defense), where the Armed Forces
13 is conducting a contingency operation on or after the date
14 of the enactment of this Act.

15 (b) IMMEDIATE EFFECTIVENESS.—The provisions of
16 this Act shall enter into effect immediately upon the enact-
17 ment of this Act.

18 (c) IMPLEMENTATION.—With respect to covered con-
19 tracts and covered contract personnel discussed in sub-
20 section (a)(1), the Director of the Federal Bureau of In-
21 vestigation, and the head of any other agency to which
22 this Act applies, shall have 90 days after the date of the
23 enactment of this Act to ensure compliance with the provi-
24 sions of this Act.

1 SEC. 6. RULE OF CONSTRUCTION.

2 Nothing in this Act shall be construed to affect intel-
3 ligence activities that are otherwise permissible prior to
4 the enactment of this Act.

Passed the House of Representatives October 4,
2007.

Attest: LORRAINE C. MILLER,
Clerk.

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